

District II Advisory Board Minutes

January 9, 2008

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The District II Advisory Board meeting was held at 7:00 p.m. at the Rockwell Branch Library, 5939 E. 9th Street North. CM Schlapp was in attendance, 9 board members attended, 5 staff and approximately 45 citizens were in attendance. Only those individuals who signed in are listed as guests below.

Members Present

Joe Johnson
Max Weddle
Marty Weeks
David Mollhagen
Sam Jones – Youth Member
Sarah Devries
Daryl Crotts
Phil Ryan
Aaron Mayes

Larry Frutigier
Brian Carduff
Nick Pompeo – Youth Member

Staff Present

Antione Sherfield, Neighborhood Assistant
Karen Walker, Parks & Recreation
Larry Hoetner, Parks & Recreation
Doug Kupper
Bill Longnecker, Planning

Guests

Listed below.

Members Absent

Tim Goodpasture

ORDER OF BUSINESS

CALL TO ORDER

The meeting was called to order at 7:02 p.m. DAB members did introductions. CM Schlapp welcomed everyone and explained how the DAB meeting is conducted. She advised that Chairman Joe Johnson runs the meeting as she likes to get feedback from her board on issues brought before them and feels that this is the best manner to receive that information.

APPROVAL OF MINUTES AND AGENDA

The meeting agenda for January was approved **(9-0)**
The meeting minutes for November 5, 2007 were approved **(9-0)**
The meeting minutes for December 3, 2007 were approved **(9-0)**

PUBLIC AGENDA

Scheduled items

No items submitted:

1. Youthville Presentation: Karen Lippoldt, MTFC Recruitment Training Coordinator presented information with regard to a 6-9 month foster care program for youth with serious behavioral problems referred for out-of-home placement. Successful reunification or other long-term

placement is the objective upon completion of the MTFC placement. MTFC places one child with a family at a time: MTFC uses a team approach to treatment: Resource Parents are members of the team: Programs are individualized for each youth: Support for resource parents is available (24) hours a day, (7) days a week: Resource parents meet regularly with other resource parents in the program to learn from and support each other: MTFC Objectives - Provide the youth with supervision: Provide the youth with fair and consistent limits and consequences: Provide a supportive relationship with at least one mentoring adult: Minimize association with peers who may be a bad influence: Cost Effectiveness Analysis: Washington State Institute for Public Policy (May, 1999) – Compared to (31) other violence prevention programs and other approaches, MTFC was identified as one of the programs resulting in the greatest saving 1/3 less than group care: Net gain to taxpayer and victim costs avoided \$43,661: MTFC saved taxpayers \$14.07 for every dollar spent:

CM Schlapp thanked Karen for her presentation and all the hard work she does for at-risk individuals.

2. Off-Agenda Items

No items submitted:

STAFF REPORT

3. Community Police Report

Officer Ryan, Patrol East stated that a burglary case that he responded to recently reminded him that we need to ask homeowners to keep all doors and windows locked. The victim of the burglary surprised the suspect when he walked into her house. The suspect fled on foot. Officers began checking doors and windows of homes in the direction that he ran because it is common for suspects to look for a quick place to hide when they know the police are going to be responding. The first house we checked had a locked front door, but the back door was left unlocked by the homeowner when they went to work that day. Numerous Officers responded to check the unlocked house, as there was the potential for a suspect to be hiding inside. We cleared the house and contacted the owner who informed us that they do not always lock the back door. Officers continued checking houses in the area. Several houses away, they found another residence with the door unlocked. The process continued as we cleared unlocked houses in the area. It can become a problem when numerous Officers are busy clearing houses that were left unlocked while the suspect is gaining time and the opportunity to get away. It is important to remember that a burglar is at least as likely to enter a home through a side or back door that provides concealment than the front door. In addition, when the door or window is left unlocked, it makes it that much easier on the suspect. Finally, it is not in anyway guaranteed that the mere presence of a homeowner will scare away the suspect. A suspect who walks in an unlocked door and finds the resident at home could put the victim in harms way.

UNFINISHED BUSINESS

4. CON2007-48

Bill Longnecker, Planning Department re-presented the request for a conditional use request to permit parking and/or ancillary drive. **Bill** stated that the applicant owns a 90-foot wide by 140-foot deep platted lot (the west 90 feet of Lot 1, Block 7, Bonnie Brae Addition) that contains 12,600 square feet, is zoned “SF-5,” Single-family Residential, and is developed with a single-family residence. The applicant is seeking a Conditional Use to permit “parking area, ancillary.” See the attached site plan. Staff is advised the residence is a rental. The lot is located at 8201 East

Peachtree, which is the southeast corner of Peachtree Lane and South Heather Road, and adjoins land to the south and east (Lot 6, Ruth Addition and Lot 4, Higgins-Andeel 2nd Addition) that has frontage on East Kellogg's north frontage road. These two lots (Lot 6 and Lot 4) located to the south and east are zoned "LC," Limited Commercial, and developed with the Wichita Inn East, and parking that supports the inn. The applicant proposes to sell the southern 30 feet, 2,700 square feet, of the subject lot to the adjoining property owner to the south, CAP Partnership, which operates the Wichita Inn East.

Lot 6, Ruth Addition, the western end of the Wichita Inn's site, is located immediately south of the subject property, and is partially developed with parking that supports the motel. Lot 6 was originally much deeper, but with improvements to East Kellogg the lot is now approximately 118 feet deep. Adding 30 feet from Lot 1 to the Inn's land area would provide an approximately 148-foot deep lot that would be more useable. The applicant's site plan indicates the area is to be used for parking and a driveway.

The sale of a portion of a residential lot developed with a single-family home is somewhat unusual, however, the configuration of the applicant's lot and the lots adjacent to the subject site have contributed to this unusual situation. The applicant's lot was originally part of an "Oklahoma" shaped lot with a "panhandle" that extended east from the applicant's current rectangle shaped lot. As mentioned above, the applicant's lot is currently 140 feet deep, north to south. The "panhandle" portion of the original lot was only 67 feet deep (north to south) by 99 feet wide (east to west). At some point, Lot 1 was split to create the two portions of Lot 1 that we have today. Because of this somewhat unusual lot configuration, the land to the south (Lots 2 and 3 of the Higgen-Andeel 2nd Addition) extends further north than the lots located east and west of these two lots, creating an irregular boundary where "LC" zoning projects further north on these two lots than on the lots located to the east and west.

If the request is approved, the home site would still retain approximately 9,900 square feet of lot area, which is well within the minimum lot area requirement for this zoning district, and there would be approximately 25 feet from the house to the new lot line. There is an eight-foot platted utility easement located along the existing south property line that has a sewer line located within the easement. The utility easement will have to be addressed to ensure that the remainder of the application area containing the home still has legal access to utilities. A boundary shift will need to be obtained. In addition to the utility easement, construction on the site will trigger applicable code required setbacks, landscaping, screening.

The land north, east and west of the site are part of the Bonnie Brae neighborhood, zoned "SF-5," Single Family Residential and are developed with single-family homes. The lot to the east of the application area is only 67 feet deep so the applicant's lot already has "LC" zoning along its eastern boundary for a distance of 72 feet. Heather Road separates the applicant's property from the property located to the west. Currently both the applicant's lot and the neighboring lot to the west (across Heather) rear property lines terminate at the same depth from Peach Tree Lane, where Heather is fenced and closed to through traffic.

CASE HISTORY: The Bonnie Brae Addition was recorded in 1953. A nearly identical area was the subject of an application to rezone the property to "LC," Limited Commercial (ZON2007-18). Zoning application ZON2007-18 encountered significant neighborhood opposition, and was ultimately denied. **Bill** also stated that the staff received a letter of protest from the Bonnie Brae Home Owners Association that outlined their issues with this particular case. **Bill** encouraged that individuals wait until after the recommendation from the MAPC before moving forward with their

petition. **Doug Marriot, 4001 Terrace Circle**, stated that they are requesting use for the (30) ft. space to be used as a drive out for Heather road. **Larry Seller, 8121 Peachtree**, stated he was afraid of a trickle down effect interns of businesses buying out homeowners. **Roy Minor, 8126 Peachtree**, stated that he is against this because he doesn't want cars parked in his backyard. **Greg Barker, 8236 Morningside**, stated that the HOA recognizes that there was some discussion earlier between the HOA in regard to commercial interest in their neighborhood. He states the HOA tentatively agreed that they would not oppose a conditional use. He states that the developer is requesting additional parking which the HOA opposes. There is some raw land to the west that could be used for additional parking. **Heath Wallace, 8127 Peachtree**, stated that he is opposed to having a parking lot in back of his property, if he wanted that he would have bought a house that had a parking lot next to it. He also stated that he is afraid of losing additional properties to commercial property owners. **CM Shclapp** asked for some history on this case. She stated that the case went to Council and at that time they wanted to purchase the property and change the zoning. **CM Schlapp** stated that she was in favor of the neighborhood and worked very hard to come up with something that worked for everyone. The Council put their decision on hold. **CM Schlapp** stated that she spoke with **Mr. Marriot** and was under the impression that they had an agreement to where the land would not change hands and the owner would maintain ownership. **CM Schlapp** stated this is a fair compromise and that we have spent some time and energy on this case. She also stated that Council who will make the ultimate decision was in favor of selling the land and changing the zoning. **Marty Weeks, DAB Member**, inquired about the terms of the lease and how would that would effect their neighborhood if the property was sold. **CM Shclapp** stated that the lease would be specific to the fact that it will only be used as a road. **Dave Mollhagen, DAB Member** stated that he was glad things were clarified because making this area a parking lot would be intrusion upon the neighborhood. He also stated this was a good compromise for all parties. **CM Schlapp** stated that it would not be the last discussion pertaining to this matter.

Action Taken: No action taken: Chairman Joe Johnson requested a motion to defer case until after MAPC. **Motion vote (9-0)**

NEW BUSINESS

5. CON2007-00038

Bill Longnecker, Planning Department re-presented the request for a conditional use for an accessory apartment, generally located west of 127th Street East, North of Douglas Avenue, on the east side of Jackson Heights Street. **Bill** stated that this is a case that has been approved by the **Planning Commission (12-0)**. **Bill** provided definition of accessory apartment. **Chairman Joe Johnson** stated that this information was provided last month but the DAB was not able to vote due to lack of quorum. **Bill** stated there was one valid protest and it would go to **Council**. **DAB Member Aaron Mayes** requested motion to approve the request.

Action Taken: DAB Board voted (9-0) in favor of request.

6. Off-Road Motorsports Park

Doug Kupper, Karen Walker, Larry Hoetmer, Parks and Recreation, presented information on the concept of an off-road motor sports park. **Doug** stated that this is the fastest growing recreation activity in the Country and there is no designated public off-road recreational facility in Wichita. Grant funding would be available to from the **Recreational Trails Program (RTP)** administered by the **Kansas Department of Wildlife and Parks (KDWP)** and the **Federal Highway**

Administration (FHWA). Doug explained that the **City of Wichita** owned the land and the land was relatively remote with low population density. Doug stated that the off-road market was a 55 billion industry and this concept would provide new recreational opportunities for citizens.

Doug Kupper also stated that none of the City Parks are big enough for this venue. Several members from the public had comments pertaining to presentation. **Ann Minges, 901127 N. 127 St,** stated that she owns (80) acres in the area and (160) acres would not be enough space for venue. She also stated the current water line would not support this project. **Don Pennington, 2144 Exchange Rd,** stated that he frequently travels to Ft. Scott and Utah to participate in 4X4 activities. He also stated that there is a lot of interest in this sport and it is a family oriented sport. **Stan Webb, 11701 E. 77 St,** stated that this ATV Park would be a negative to locals. He also stated that that this project would increase crime in the area. **Brenda Melby, 11800 Turtle Creek Circle,** stated that she moved to this area because of the peace and quietness. She also stated that this project would compromise their quality of life. **Tom Roth, 2201 S. Cooper,** stated that we have to look at this project as a safety issue. Currently there are people using big ditches for ATV driving which is extremely dangerous. **Dan Wedell, 11601 E. 77th St,** stated that the closest gas station is at 37th and Rock Rd. He also stated that it would cost a lot of money to pave the roads in the area. **Steve Pickle, 10609 W. Ridge St,** stated that this project is a good idea because it is hard to find legal places to ride. **Margaret Wiggs, 11515 S. Rutan,** stated that the noise pollution, dust, and light would make natural environment go away. **CM Schlapp** thanked everyone for their ability to come forward to discuss a very tough issue. She stated that she had learned a lot from the discussion.

Action Taken: DAB Board voted (8-1) to move forward with Off-Road Motor Sports Park concept.

7. DER2007-13

Bill Longncecker, Planning Department, re-presented information regarding Article III Section III –C.2.b(1)(b) of the UZC that prohibits the installation of off-site signage on property with the community unit plan (CUP) zoning. On October 4, 2007, Greg Ferris, Ferris Consulting, appeared before the Metropolitan Area Planning Commission (MAPC), and asked the MAPC to hold a hearing regarding Article III Section III-C.2.b(1)(b) of the UZC that prohibits the installation of off-site signage on property with community unit plan (CUP) zoning.

The current language in the UZC regarding off-site signage in CUP's is as follows:

- (1) **Permitted uses and structures.** The following uses and structures may be allowed as part of a nonresidential CUP:
 - (a) All permitted and Conditional Uses in the zoning classification in which the development is proposed, subject to all applicable site development regulations such as, but not limited to, Supplementary Use Regulations and Special District Regulations.
 - (b) **Signs, provided that no off-site or portable signs shall be permitted.**
 - (c) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures and that do not involve operations or structures that are incompatible with the district.

- (d) In cases where a nonresidential CUP development proposes a mixture of nonresidential and residential uses, the CUP development plan shall indicate the proposed location and general types of such uses and the method of screening and buffering.

The applicant proposes to modify subparagraph (b) to read: “Signs, provided that no ~~off-site or~~ portable signs shall be permitted.” (“Signs, provided that no portable signs shall be permitted.”) At the first District Advisory Board meetings the applicant revised the proposal. In addition to the language suggested above the applicant also proposes the following language to be added to the amended language suggested above: No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council.

The complete proposed amendment would read as follows: “Signs, provided that no portable signs shall be permitted. No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council.”

Analysis

The intent of the community unit plan district is to provide well planned and well organized development, and to protect the public safety, convenience, health and general welfare through standards and provisions that establish proper development requirements, including signage. The character of the development should be appropriate to the neighborhood and conditions, and safeguards should be provided to ensure that the development would minimize any diminution, if any, in the value of surrounding property.

By definition, off-site signage includes billboards. (24.04.185.1.q) The UZC’s prohibition against off-site signs in CUP districts has been part of the code since at least 1964. MAPC minutes from March 19, 1964, contain the following language relating to advertising signs in CUP zones: “Advertising signs, relating to the proposed development, the stores and shops and products sold therein are permitted. No billboards shall be permitted.”

In addition to the above-mentioned UZC prohibition against off-site signs, many CUPs also contain language specifically prohibiting off-site and billboard signage. The Sign Code of the City of Wichita also contains the following language:

“No zoning district or zoning shall be considered for linear measurement (for a billboard or off-site sign) if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District except when such district specifically allows off-site billboard signs.” (24.04.222.2)

“Except as permitted by Section 24.04.225 (Special Review Approval for Off-site Billboard Sign Permits), no off-site billboard signs shall be erected closer than 300 feet from a platted and residentially-zoned lot on which the primary residential structure can be legally erected or to a residential structure. This distance shall be measured from the nearest lot line of such platted and residentially zoned lot or residential structure to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially zoned lot or residential structure is fully screened from view of the proposed off-site billboard

sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially zoned lots in the Wichita-Sedgwick Unified Zoning Code) of the residentially zoned lot or residential structure.” (24.04.222.4.d)

With respect to billboards in LC zoning along an arterial, a maximum of two billboards facing the same direction of travel are permitted so long as there is a minimum of 3,000 lineal feet of LC, GC or LI zoning along the designated mile. Billboards must be spaced 330 feet from another billboard facing the same direction of travel along the same street. Maximum billboard height is permitted to be up to 30 feet, but taller signs are permitted in order to maintain eight feet of clearance above a building to the bottom of the sign, but no taller than 26 feet above the roof or parapet wall; or 14 feet above the top of the railing or barrier along the traffic deck of an elevated highway. Billboards in LC zoning are limited to 300 square feet in area. One can count more intense zoning districts – GC, LI or GI- towards the lineal footage requirement.

With respect to billboards in GC, LI and GI zoning, a minimum of 500 linear feet of GC, LI or GI zoning in the designated mile is required per sign, with a maximum of five billboards permitted facing the same direction of travel along the designated mile in GC and LI while up to eight signs may be permitted in the GI. The size of billboards permitted in GC, LI and GI is 672 square feet (14x48 feet), and up to 825 square feet with extensions.

Approval of this request will affect mostly those early CUP’s that do not specifically contain a prohibition against off-site signs. Most CUPs since the early 1990s specifically prohibit off-site signage. Approval of this request would not change that fact. It would take an amendment to each individual CUP to remove that prohibition.

The sign code does not contain the same UZC prohibition regarding off-site signs; it relies upon the zoning code as the basis for this regulation. The purpose of this review of the Sign Code regulations dealing with off-site signage in CUPs is to show that the zoning code prohibition on off-site signage in CUPs is the key regulation that ties all the other sign code provisions together dealing with off-site signage in CUPs.

David Mollhagen, Clear Channel Outdoor Advertising, stated that any development over (6) acres requires a CUP except industrial development, to be in a CUP. A. This requirement causes all property, even if the owner does not want to have a CUP on his property, to follow these rules. **B.** The location of the property is not taken into consideration. Property along highways are treated the same as property in established areas. **C.** Staff correctly states that “character of the development should be appropriate to the neighborhood and conditions”, however the restriction against off-site signs in a CUP does not take into consideration either the neighborhood or conditions. **D.** The sign code already strictly where off-site signs are allowed. They are only allowed in General Industrial, Limited Industrial, General Commercial, or Limited Commercial districts. **E.** In an existing off-site sign is on property that later becomes a CUP, the off-site sign becomes non-conforming. Therefore only face changes and maintenance can be performed on the sign. **This sign cannot be reconstructed or improved thus leading to old signs that are not replaced. The approved language will not lead to significant additional off-site signs along arterials. A.** The 2006 update of the sign code makes it very difficult to construct off-site signs along arterials: this includes increasing the required separation from a residential lot or structure by as much as five times, reducing the size of off-site signs along arterials. **B.** There are very few CUPs that do not already include specific prohibition to off-site signs. **While CUPs are intended to “provide well planned and well organized development”, they also are intended to create flexibility in land use development. A.** CUPs contain specific language that differentiates it from

other CUPs. While there is some standard language there are significant differences in every CUP. **B.** If property is developed along highways it is different than property along arterials. The proposed change will allow the developer, planning staff, the planning commission, and the City Council to evaluate each property on a case-by-case basis. **C.** Property owners should have the right to present their arguments to the DAB's, planning commission and City Council on how their land is developed. Arbitrarily excluding some legal development, without a hearing, violates all principles of property rights. **CM Schlapp** requested more of an understanding concerning this issue and thought this should be presented at Council Workshop.

Action Taken: No action taken: This case will be brought to Council Workshop:

BOARD AGENDA

8. Updates, Issues, and Reports

Smoking Bann Issue: **Janet Rine, 304 N. Bluff**, stated that second hand smoke places individuals at a high risk for cancer. She also stated that restaurant owners should have to apply for a license to sell tobacco products or use in facility. **Larry Doss, Walt's Bar and Grill**, stated that it is an individual's choice to attend pro-smoke facilities. He also stated that he makes his business choices based on what his customers needs are. **Diane Tinker, 6401 E. Beechy**, stated that second hand smoke kills, smoking in restaurants effects minorities that work in these establishments. Working in pro-smoke businesses puts you in danger of lung cancer and other smoking related deaths. **Bruce Bodecker, 1945 N.W. Butler Rd**, stated that it is a business owners rights to make it's own business decisions. **John Rosell, 15800 Limerick**, stated being a smoke-free establishment does not affect bars and grills from a cost standpoint. He also stated that a WSU survey states 73% of Wichita supports a smoke-free environment. **Gary Borderlin, Rodeo Club**, stated that when you change to a smoke-free establishment, you lose 20% of your revenue. He also stated that 20%-30% of business following the change go out of business. **Heather Park, 2218 Lindberg**, stated that this is a public health and public safety issue. **Patricia Madden, 11057 E. 77th St. S**, stated that she no longer goes to bars anymore because of the smoke. She stated that if the Rodeo Club became smoke-free; it would not go out of business. **Larry Doss** reiterated that he is trying to stay in business. He stated that (150) bars closed last year due to conforming to a smoke-free environment. **Matt Conrad, 1428 Sundance Ct**, stated that it is the Governments right to protect citizens and most constituents from **District II** are in favor of a smoke ban. **Judy Young**, stated that if Wichita wants to attract young professionals it is now time to adopt the smoke-free ban. **Randy Burnett , 140 S. Belmont**, stated that this is a public health issue. He also stated that he attended Walt's Bar and Grill and the food was good but he did not return due to all the smoke. He also stated the ban would not have economical impact on the City of Wichita. **CM Schlapp** thanked everyone for feedback on another difficult topic. She stated that she would like for everyone to come to a compromise so that Government doesn't have to intervene.

Action Taken: Received and filed:

With no further business, the meeting was adjourned at 10:27 p.m. The next DAB II meeting will be Monday February 4, 2008

Respectfully Submitted,
Antione Sherfield, Neighborhood Assistant

Guest

Officer Phil Ryan
Becky Tuttle
Diane Tuttle
Bruce Bodecker
Sonja Armbruster
Tom Roth
Diane Ward
Ty Kane
Matt Conrad
Pat Madden
Dan & Judy Wadell
Steen Martenson
Katie Miroz
Diane Tinker
John Stevens
Steve Hicks
Heath & Sarah Wallace
Roy Minor
Dave Stark
David Creveling
Lyle & Jean Kemp
Brian West
Randy Burnett
Heather Park
Jon Rosell
Wally Seibel
Don Pennington
Don Srunbre
Brenda Melby